

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION FILE NO. 1:12-CV-589

MARCIE FISHER-BORNE, for herself and as guardian *ad litem* for M.F.-B., a minor; CHANELLE FISHER-BORNE, for herself and as guardian *ad litem* for E.F.-B., a minor; TERRI BECK; LESLIE ZANAGLIO, for herself and as guardian *ad litem* for T.B.Z. and D.B.Z., both minors; SHANA CARIGNAN; MEGAN PARKER, for herself and as guardian *ad litem* for J.C., a minor; LEIGH SMITH; CRYSTAL HENDRIX, for herself and as guardian *ad litem* for J.H.-S., a minor; DANA DRAA; LEE KNIGHT CAFFERY, for herself and as guardian *ad litem* for M.M.C.D. and M.L.C.D., both minors; SHAWN LONG; CRAIG JOHNSON, for himself and as guardian *ad litem* for I.J.-L., a minor;

Plaintiffs,

VS.

JOHN W. SMITH, in his official capacity as the Director of the North Carolina Administrative Office of the Courts; THE HONORABLE DAVID L. CHURCHILL, in his official capacity as Clerk of the Superior Court for Guilford County; and THE HONORABLE ARCHIE L. SMITH III, in his official capacity as Clerk of the Superior Court for Durham County; ROY COOPER, in his official capacity as the Attorney General of North Carolina; WILLIAM COVINGTON, in his official capacity as the Register of Deeds for Durham County; and JEFF THIGPEN, in his official capacity as the Register of Deeds for Guilford County;

Defendants

**MOTION TO DISMISS FIRST
AMENDED COMPLAINT**

[Fed. R. Civ. P. 12(b)(1),(2) and (6)]

PURSUANT to Rules 12(b)(1), (2) and (6) of the Federal Rules of Civil Procedure, now

come Defendants JOHN W. SMITH, in his official capacity as the Director of North Carolina Administrative Office of the Courts; THE HONORABLE DAVID L. CHURCHILL, in his official capacity as Clerk of the Superior Court for Guilford County; and THE HONORABLE ARCHIE L. SMITH III, in his official capacity as Clerk of the Superior Court for Durham County, (collectively referred to as “the original Defendants”), by and through the undersigned attorneys, and respectfully move the Court to dismiss Plaintiffs’ First Amended Complaint against the original Defendants in the above-captioned matter.

Respectfully submitted, this the 5th day of August, 2013.

ROY COOPER
Attorney General

/s/ Mabel Y. Bullock
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CERTIFICATE OF SERVICE

I hereby certify that on the 5th of August, 2013, I electronically filed the foregoing **MOTION TO DISMISS FIRST AMENDED COMPLAINT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record, and I further certify that on the 6th day of August, 2013, I served the following named parties by depositing a copy of the foregoing **MOTION TO DISMISS FIRST AMENDED COMPLAINT** with the United States Postal Service, first-class postage prepaid, and addressed as follows:

Jeff L. Thigpen,
Register of Deeds for Guilford County
2nd Floor, BB&T Building
201 West Market Street
Greensboro, NC 27401

William L. Covington
Register of Deeds for Durham County
Ground Floor, Old Courthouse
200 East Main Street
Durham, NC 27701

/s/ Olga E. Vysotskaya de Brito
Olga E. Vysotskaya de Brito
Assistant Attorney General